

## Message Text

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ACTION L-03

INFO OCT-01 AF-06 ISO-00 SCA-01 JUSE-00 INR-07 SSO-00

INRE-00 /018 W

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O 161000Z JAN 76

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC IMMEDIATE 7223

UNCLAS NAIROBI 0470

E.O. 11652: N/A

TAGS: ALIT, KE

SUBJ: CIVIL CLAIM AGAINST EMBASSY - AUTO ACCIDENT

REF STATE 007952

FOLLOWING INFORMATION PROVIDED PER YOUR REQUEST CONTAINED IN  
REFERENCED STATE CABLE.

1. PLAINTIFF: PETER NDUNGU, KENYA CITIZEN

DEPFENDANT: GITHOGO NGOBIA, KENYA CITIZEN, EMBASSY DRIVER

2. COURT SUMMONS ISSUED TO EMBASSY DRIVER ONLY, LETTER FROM  
KAPLAN & STRATTON DATED FEB 28, 1974 ADDRESSED TO TARA P.BOSE,  
FORMER LOCAL EMPLOYEE OF EMBASSY, NOW WORKING AT AMEMBASSY  
LONDON AND APPARENTLY ACTING UNDER THE INSTRUCTION OF NAIROBI'S  
THEN ASSISTANT GENERAL SERVICES OFFICER JAMES WALSH, NOW  
ASSIGNED TO THE DEPARTMENT, STATES, QUOTE "WE REFER TO YOUR  
LAST CALL ON US WHEN YOU GAVE US THE SUMMONS IN THE ABOVE  
CASE. WE HAVE NOW ENTERED AN APPEARANCE ON BEHALF OF  
THE DEFENDANT AND WE WOULD BE MOST GRATEFUL IF THE  
DEFENDANT CALLED ON US VERY URGENTLY SO AS TO MAKE A  
STATEMENT ON HOW THE ACCIDENT OCCURRED TO ENABLE US TO  
FILE THE DEFENCE IN TIME" END QUOTE. KAPLAN & STRATTON  
LETTER DATED MARCH 27, 1974 INFORMS MR. BOSE THAT  
THEY HAVE FILED A DEFENCE ON DEFENDANT'S BEHALF.  
STATUTE OF LIMITATIONS FOR TORT ACTIONS IS THREE YEARS  
FROM DATE OF ACCIDENT.

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3. NO INDEPENDANT WITNESSES. OFFICIAL PASSENGER IN EMBASSY VEHICLE BELIEVED TO HAVE BEEN THE THEN REGIONAL COMMUNICATIONS OFFICER ROBERT P. RICHARDSON NOW STATIONED EMBASSY ATHENS. RICHARDSON SENT CABLE FROM TDY PRETORIA DEC 2, 1970 ABSOLVING EMBASSY DRIVER FROM BLAME IN ACCIDENT.

4. KAPLAN & STRATTON STATE THAT WHILE THERE IS NO WAY OF DETERMINING COURT RULING LOCAL COURTS ARE USUALLY SYMPHETIC TO INJURED PARTIES IN LIKE CASES.

5. KAPLAN & STRATTON'S FEE AT THE MOMENT IS, WITH RECENT DEVALUATION, APPROXIMATELY 730 DOLLARS. IF K&S ARE AUTHORIZED TO CONTINUE TO REPRESENT THE DEFENDANT IN COURT FEES WOULD PROBABLY DOUBLE PRESENT COST. HOWEVER WITH POSSIBLE COURT COSTS COULD BE MORE. K&S STATE IMPOSSIBLE TO DETERMINE EXACT OR APPROXIMATE COSTS. AS EMBASSY STATED IN NAIROBI 9639, NOV 5, 1975, IF CASE IS CONTESTED AND LOST, INJURED PARTY COULD POSSIBLY BE AWARDED ABOUT 8,000 DOLLARS.

6. K&S NOTICE IN FORM OF LETTER ONLY.

7. COMPLETE FILE AIR POUCHED JAN 16, 1975 POUCH NUMBER BR-5432. REGISTRY NUMBER 2073995.

8. DEPARTMENT WILL APPRECIATE DIFFICULTY IN RECONSTRUCTING FIVE YEAR OLD ACCIDENT CASE BY INDIVIDUALS WHOSE ONLY ACCESS IS SOMEWHAT INCOMPLETE FILE AND NO PERSONAL KNOWLEDGE OF INCIDENT.

9. DUE EXTREME SHORTAGE TIME PRIOR TO COURT CASE FEBRUARY 2 AND K&S OPINION THAT PLAINTIFF'S LAWYERS RELUCTANT TO POSTPONE HEARING REQUEST DEPARTMENT'S EARLIEST ADOICE. MARSHALL

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## Message Attributes

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